

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PINTO KROPEK,

Plaintiff,

Case No. 13-cv-13573

v.

HONORABLE STEPHEN J. MURPHY, III

JUDGE BRIAN SULLIVAN; JUDGE MARK
A. McCONNELL; TROTT & TROTT, P.C.;
DONALD J. KING; PARISA GHAZAERI;
WARREN EVANS; RALPH LEGGAT;
EHMAN & GREENSTREET, INC.; JP
MORGAN CHASE BANK, N.A.; and
FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Defendants.

**ORDER ADOPTING REPORT
AND RECOMMENDATION** (document
no. 25) **AND GRANTING DEFENDANT JUDGE BRIAN SULLIVAN'S
MOTION TO DISMISS** (document no. 6) **AND DEFENDANT JUDGE MARK
A. McCONNELL'S MOTION FOR SUMMARY JUDGMENT** (document no. 15)

This case arises out of Plaintiff Pinto Kropek's challenge to a mortgage foreclosure involving the property where he was residing that he brought in Michigan state court. Defendant 18th District Judge Mark A. McConnell entered a judgment in possession in favor of Defendant Federal National Mortgage Association ("Fannie Mae") and against Plaintiff, which was upheld on appeal by Defendant Wayne County Circuit Court Judge Brian Sullivan. Plaintiff has brought claims against various individuals and entities involved in the foreclosure proceeding. The Court referred all pre-trial proceedings to Magistrate Judge Laurie J. Michelson for resolution or recommendation. Pending before Judge Michelson are various motions to dismiss made by the numerous parties.

Before the Court immediately are the claims against Judge McConnell and Judge Sullivan. Plaintiff contends that, by working in conjunction with the other defendants, Judge McConnell and Judge Sullivan denied and conspired to deny Plaintiff of his due process and other constitutional rights in violation of 42 U.S.C. §§ 1983 and 1985. On August 29, 2013, Judge Sullivan filed a motion to dismiss. Deft. Judge Sullivan's Mot. to Dismiss, ECF No. 6. Judge McConnell followed with a motion for summary judgment on September 23, 2013. Deft. Judge McConnell's Mot. for Summ. J., ECF No. 15.¹ Plaintiff responded on September 27, 2013 and October 25, 2013. Resp. to Judge Sullivan's Mot., ECF No. 19; Resp. to Judge McConnell's Mot., ECF No. 24.

On November 5, 2013, the Magistrate Judge issued a Report and Recommendation ("Report"), recommending that the claims against Judge Sullivan and Judge McConnell be dismissed without prejudice because, pursuant to the *Rooker-Feldman* doctrine, the Court lacks subject-matter jurisdiction over them, and, in the alternative, the claims be dismissed with prejudice because Plaintiff has failed to state a claim upon which relief may be granted since Plaintiff's claims for damages against the Judges in their official capacities are barred by the Eleventh Amendment and the Judges are absolutely immune from § 1983 suits arising out of their performance of judicial functions. ECF No. 25.

Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is only required if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion after referring it to a magistrate judge, he is entitled to review the magistrate judge's

¹The Court has construed this motion as a motion to dismiss.

findings of fact and conclusions of law on his own initiative. See *Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and recommendation “de novo if no objections are filed, it does not preclude further review by the district judge, sua sponte or at the request of a party, under a de novo or any other standard”).

Because no party filed objections to the Report, de novo review of the Report's conclusions is not required. Having reviewed the Report's analysis, in light of the record, the Court finds that its conclusions are factually based and legally sound. Accordingly, it will adopt the Report's findings and grant Judge Sullivan's and Judge McConnell's motions.

ORDER

WHEREFORE, it is hereby **ORDERED** that the Report and Recommendation (document no. 25) is **ADOPTED**.

IT IS FURTHER ORDERED that Judge Sullivan's motion to dismiss (document no. 6) and Judge McConnell's motion for summary judgment (document no. 15) are **GRANTED**.

IT IS FURTHER ORDERED that all of Plaintiff's claims against Judge Sullivan and Judge McConnell are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

SO ORDERED.

s/Stephen J. Murphy, III

STEPHEN J. MURPHY, III
United States District Judge

Dated: November 26, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 26, 2013, by electronic and/or ordinary mail.

s/Carol Cohron

Case Manager